

Mussa v Mukasey, No. 05-70751

FEB 21 2008

SILVERMAN, Circuit Judge, dissenting:

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Because the BIA assumed Mussa to be credible, so must we. *See Ladha v. INS*, 215 F.3d 889, 901 (9th Cir. 2000) (citing *Hartooni v. INS*, 21 F.3d 336, 342 (9th Cir. 1994)). Mussa testified that when the family's house was commandeered by a military captain, the captain told Mussa's wife that "we know your husband is a supporter of the King and we still haven't forgotten that." When Mussa's wife began legal proceedings to reclaim the house, soldiers threatened to kill Mussa upon his return from sea. Mussa's wife was herself arrested and detained for nine days, after which she fled for Uganda. Two years later, upon being expelled from Uganda, some of her property was confiscated at the Rwandan border. When she returned to the border to reclaim her belongings, she was never seen nor heard from again.

Mussa has thus demonstrated an objectively reasonable basis upon which to conclude that there is at least a ten percent chance that he will suffer politically-motivated persecution if he returns to Rwanda. Combined with his subjective belief that he will be killed or imprisoned upon his return, this is sufficient to establish a well-founded fear of future persecution, which renders Mussa eligible for asylum. *See Njuguna v. Ashcroft*, 374 F.3d 765, 770 (9th Cir. 2003). I would grant the petition for review and remand to the BIA for further proceedings.

